

Appeal No. 2021-1154

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

CELGENE CORPORATION

Plaintiff-Appellant,

v.

MYLAN PHARMACEUTICALS INC., MYLAN INC., MYLAN N.V.

Defendants-Appellees.

**Appeal From The United States District Court,
District of New Jersey**

Case No. 2:19-cv-05802-ES-MAH, Judge Esther Salas

**UNOPPOSED MOTION OF PLAINTIFF-APPELLANT FOR A
FOURTEEN-DAY EXTENSION OF TIME TO FILE ITS OPENING BRIEF**

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Attorneys for Appellant Celgene Corporation

December 18, 2020

**UNOPPOSED MOTION FOR A FOURTEEN-DAY EXTENSION OF TIME
TO FILE ITS OPENING BRIEF**

Pursuant to Federal Circuit Rule 26(b), Plaintiff-Appellant Celgene Corporation (“Celgene”) respectfully moves for a fourteen (14) day extension of time to file its Opening Brief.

Counsel for Celgene has conferred with counsel for Defendant-Appellees Mylan Pharmaceuticals Inc., Mylan Inc., and Mylan N.V. (together, “Mylan”) and is authorized to state that Mylan does not oppose this motion.

In support of this motion, Celgene states as follows:

1. On October 23, 2020, Celgene filed its Notice of Appeal from the Order of Dismissal entered by the United States District Court for the District of New Jersey in Civil Action No. 19-5802.

2. On November 5, 2020, this Court docketed Celgene’s appeal.

3. Celgene’s opening brief is currently due on January 4, 2021.

4. Celgene has not made any prior requests for an extension of this deadline.

5. A fourteen-day extension of the deadline would render Celgene’s Opening Brief due on January 18, 2021. As January 18, 2021, is a legal public holiday, 5 U.S.C. § 6103, Celgene’s Opening Brief if an extension were granted would instead be due on January 19, 2021. *See* Fed. Cir. R. 26(a)(2).

6. On December 15, 2020, Celgene's counsel requested that Mylan agree to an extension of the deadline for Celgene's Opening Brief to January 19, 2021. Mylan agreed not to oppose the requested extension on December 17, 2020.

7. Counsel for Celgene presently has other professional obligations during the pendency of the time for filing their Opening Brief. The additional time requested by this motion will afford Celgene's counsel the time to fully address the complex issues presented by Celgene's appeal while also attending to other matters.

8. This motion is being filed more than seven (7) calendar days before the original due date for the brief. *See* Fed. Cir. R. 26(b)(1).

For the foregoing reasons, Celgene respectfully requests that the Court extend the due date for Celgene's Opening Brief by fourteen (14) days, until January 19, 2021, accounting for the legal public holiday on January 18, 2021.

Dated: December 18, 2020

/s/ F. Dominic Cerrito

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FORM 9. Certificate of Interest

Form 9 (p. 1)
July 2020

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

CERTIFICATE OF INTEREST

Case Number 2021-1154

Short Case Caption Celgene Corporation v. Mylan Pharmaceuticals Inc.

Filing Party/Entity Celgene Corporation

Instructions: Complete each section of the form. In answering items 2 and 3, be specific as to which represented entities the answers apply; lack of specificity may result in non-compliance. **Please enter only one item per box; attach additional pages as needed and check the relevant box.** Counsel must immediately file an amended Certificate of Interest if information changes. Fed. Cir. R. 47.4(b).

I certify the following information and any attached sheets are accurate and complete to the best of my knowledge.

Date: 12/18/2020

Signature: /s/ F. Dominic Cerrito

Name: F. Dominic Cerrito

Form 9 (p. 2)
July 2020

☐ Additional pages attached

FORM 9. Certificate of Interest

Form 9 (p. 3)
July 2020

4. Legal Representatives. List all law firms, partners, and associates that (a) appeared for the entities in the originating court or agency or (b) are expected to appear in this court for the entities. Do not include those who have already entered an appearance in this court. Fed. Cir. R. 47.4(a)(4).

☐ None/Not Applicable ☒ Additional pages attached

SEE ATTACHED		

5. Related Cases. Provide the case titles and numbers of any case known to be pending in this court or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal. Do not include the originating case number(s) for this case. Fed. Cir. R. 47.4(a)(5). See also Fed. Cir. R. 47.5(b).

☐ None/Not Applicable ☐ Additional pages attached

Celgene Corporation v. Hetero Labs Limited, et al., No. 17-cv-3387 (D.N.J.)		

6. Organizational Victims and Bankruptcy Cases. Provide any information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees). Fed. Cir. R. 47.4(a)(6).

☒ None/Not Applicable ☐ Additional pages attached

Additional Page For Item 4 (Legal Representatives)

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FORM 19. Certificate of Compliance with Type-Volume Limitations

Form 19
July 2020

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATIONS

Case Number: 2021-1154

Short Case Caption: Celgene Corporation v. Mylan Pharmaceuticals Inc.

Instructions: When computing a word, line, or page count, you may exclude any items listed as exempted under Fed. R. App. P. 5(c), Fed. R. App. P. 21(d), Fed. R. App. P. 27(d)(2), Fed. R. App. P. 32(f), or Fed. Cir. R. 32(b)(2).

The foregoing filing complies with the relevant type-volume limitation of the Federal Rules of Appellate Procedure and Federal Circuit Rules because it meets one of the following:

- ☒ the filing has been prepared using a proportionally-spaced typeface and includes 344 words.
- ☐ the filing has been prepared using a monospaced typeface and includes _____ lines of text.
- ☐ the filing contains _____ pages / _____ words / _____ lines of text, which does not exceed the maximum authorized by this court's order (ECF No. _____).

Date: 12/18/2020

Signature: /s/ F. Dominic Cerrito

Name: F. Dominic Cerrito